Remarks

The Office Action mailed February 10, 2005 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 1-20 and 22 are now pending in this application. Claims 1-22 stand rejected. Claim 21 has been canceled.

In accordance with 37 C.F.R. 1.136(a), a two month extension of time is submitted herewith to extend the due date of the response to the Office Action dated February 10, 2005, for the above-identified patent application from May 10, 2005, through and including July 10, 2005. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of $450.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1-22 under 35 U.S.C. § 103(a) as being unpatentable over Freeman et al. (U.S. Patent No. 6,249,775) ("Freeman") in view of Forbes (U.S. Patent No. 6,249,217) and Vig (U.S. Patent No. 6,038,554) is respectfully traversed.

Applicant respectfully submits that none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest the claimed invention. As discussed below, none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest a method for re-marketing collateral securing a group of non-stationary asset-based loans that includes *utilizing a computer and a collections model to predict a payment behavior for borrowers of non-stationary asset-based loans* included within a distressed loan portfolio *wherein the collections model is based on* historical payment information of the borrowers and *a plurality of collection strategies that may be utilized for collecting payment from the borrowers*, and wherein the non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans. (Emphasis added.)

Furthermore, none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest *initiating at least one of the plurality of collection strategies with respect to the borrowers, analyzing the borrowers' payment behavior after initiating the at least one*

collection strategy, comparing each of the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the same borrower, and deeming a number of the loans included within the distressed loan portfolio as uncollectable based on the borrower's payment behavior comparison. (Emphasis added.)

Moreover, none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest utilizing the computer and a re-marketing model *to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets*, and utilizing the computer and the re-marketing model *to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans.* (Emphasis added.)

Freeman describes a method for mortgage and closed end loan portfolio management in the form of an analytic tool designed to improve analysis of past and future performance of loan portfolios. The method includes aggregating loan units into loan vintages, wherein the loans in each vintage originate within a predetermined time interval of one another. The method further includes comparing different vintages to one another in a manner such that the ages of the loans in the different vintages are comparable to one another. An early warning component of the system predicts delinquency rates expected for a portfolio of loans during a forward looking time window. A matrix link component of the invention combines the loan vintage analysis with the early warning component of the invention and predicts the default rate of the loan portfolios at a selected future point in time. The results of the analysis are graphically depicted and/or automatically fedback to provide "yes" or "no" decisions regarding investments in various loan portfolios.

Forbes describes a method of securing collateral for a loan wherein the collateral is a vehicle. The method includes installing a transmitter within the vehicle. The transmitter is capable of transmitting location data regarding the vehicle. The status of the loan is monitored for a default condition. A data link is established from a base terminal to the transmitter of the vehicle upon an occurrence of the default condition in the loan status. Location data is

transmitted from the transmitter of the vehicle to the base terminal via the data link. The location of the vehicle is determined from the location data transmitted to the base terminal. The vehicle can then be confiscated.

Vig describes a computer-assisted valuing system for discovering both an entity's actual current societal monetary value and its contemporary monetary worth specifically to the inquiring individual person, group or corporation. The system provides a user with such target entity's retail and wholesale prices along with its true worth and specific value to the explorer. The system employs as a yardstick the NORM, which is the hypothetical unit in any group that is accurately calculated to be both precisely average in every one of its collectively discoverable characteristics and its price. The system compares any test unit in that group on a natural, quantified point basis to obtain such precise current monetary worth of any such test unit, employing an organic application of inductive statistics, accurate sampling, central tendency, and statistical inference. The system draws conclusions about surveying a constantly and factually representative community (such as the United States, 1999, for example). The system enables a prospective trader to compare the contemporary monetary values of any and all competing units in or out of any probed group, regardless of such competing units' respective current prices.

Claim 1 recites a method for re-marketing collateral securing a group of non-stationary asset-based loans using a computer system configured with a collections model and a re-marketing model wherein the group of non-stationary asset-based loans is included within a distressed loan portfolio, the method includes "utilizing the computer and the collections model to predict a payment behavior for borrowers of non-stationary asset-based loans included within a distressed loan portfolio, the collections model is based on historical payment information of the borrowers and a plurality of collection strategies that may be utilized for collecting payment from the borrowers, non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans...initiating at least one of the plurality of collection strategies with respect to the borrowers...analyzing the borrowers' payment behavior after initiating the at least one collection strategy...comparing each of the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the same borrower...deeming a number of the loans included within the distressed loan portfolio as

uncollectable based on the borrower's payment behavior comparison...pursuing repossession of the non-stationary assets used as collateral for the uncollectable loans...utilizing the computer and the re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets...and utilizing the computer and the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans."

None of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest the method recited in Claim 1. More specifically, none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest a method for re-marketing collateral securing a group of non-stationary asset-based loans that includes *utilizing a computer and a collections model to predict a payment behavior for borrowers of non-stationary asset-based loans* included within a distressed loan portfolio *wherein the collections model is based on* historical payment information of the borrowers and *a plurality of collection strategies that may be utilized for collecting payment from the borrowers*, and wherein the non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans.

Furthermore, none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest *initiating at least one of the plurality of collection strategies with respect to the borrowers, analyzing the borrowers' payment behavior after initiating the at least one collection strategy, comparing each of the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the same borrower, and deeming a number of the loans included within the distressed loan portfolio as uncollectable based on the borrower's payment behavior comparison.* <u>In fact, none of Freeman, Forbes or Vig describe initiating collection strategies and then analyzing a borrower's payment behavior after initiating the collection strategies. Additionally, none of Freeman, Forbes or Vig describe deeming a loan as uncollectable based on a borrower's payment behavior comparison</u>. (Emphasis added.)

Moreover, none of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest utilizing the computer and a re-marketing model *to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets*, and utilizing the computer and the re-marketing model *to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans*.

Notably, Freeman does not describe or teach re-marketing collateral securing *a group of non-stationary asset-based loans*, wherein the non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans. Rather, Freeman describes a method for <u>mortgage and closed end loan portfolio management</u>. Applicant submits that mortgages and closed end loans are not non-stationary asset-based loans, but rather are stationary asset-based loans (i.e., real estate in a stationary asset). Accordingly, Applicant respectfully submits that Freeman does not describe or teach re-marketing collateral, nor does it describe or teach collateral securing non-stationary asset-based loans.

In addition, Freeman describes a system wherein for each group of loans of a particular age, the system uses a 3-month transition matrix to forecast three months forward, a 6-month transition matrix to forecast six months forward, a 9-month transition matrix to forecast nine months forward and a 12-month transition matrix to forecast twelve months forward. Based on the data, the system calculates respectively looking forward three, six, nine and twelve months: (1) how many good loans and bad loans will exist from the portfolio; (2) how many good loans will turn into bad; and (3) how many bad loans will remain bad. From this data, one obtains the classic "roll-rate" forecast which provides the first component of the forecast. The above approach merely projects forward the results that have already occurred in the past, on the expectation that they will repeat themselves. However, a greater benefit of the matrix link technique of the present invention comes from adding the additional information that is contained in and/or obtained by the early warning system (32). (Col. 17, line 52 to Col. 18, line 5).

The system described in Freeman (a) calculates an empirical ratio obtained as – the cumulative number of loans which are 90+ at each quarter (EOP) and divides it by the number of loans that are 90+ at least once during these four quarters; (b) from the EWS (32), the system obtains or forecasts the "bad" rate for the two-year window based on the EWS (32); and (c) using the EWS (32), the system forecasts the bad rate and the empirical ratio above as a new piece of information to adjust the classic "roll-rate" forecast. (Col. 18, lines 6-20).

The Office Action acknowledges at page 3 that Freeman fails to "teach a plurality of collection strategies that may be utilized for collecting payment from the borrowers non-stationary asset based loans...pursuing repossession of the non-stationary assets used as collateral for the uncollectable loans, utilizing the computer and a re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets, and utilizing the computer and the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans."

In fact, Applicant respectfully submits that Freeman is silent as to describing the use of collection strategies. Accordingly, Applicant submits that Freeman does not describe or teach a method for re-marketing collateral that includes utilizing a computer and a collections model to predict a payment behavior for borrowers wherein the collections model is based on historical payment information of the borrowers and *a plurality of collection strategies that may be utilized for collecting payment from the borrowers*. More specifically, Freeman does not describe or teach a collections model that is based on a plurality of collection strategies that may be utilized for collecting payment from the borrowers.

In addition, as acknowledged by the Office Action, Freeman does not describe or suggest a re-marketing model. Accordingly, Applicant submits that Freeman does not describe, suggest or even mention utilizing a re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each

of the assets, and utilizing the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans.

However, the Office Action asserts at pages 3 and 4 that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Freeman" in view of the Forbes "to include plurality of collection strategies that may be utilized for collecting payment from the borrowers non-stationary asset based loans..., pursuing repossession of the non-stationary assets used as collateral for the uncollectable loans, utilizing the computer and a re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets, and utilizing the computer and the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans." Applicant traverses this assertion.

Specifically, Forbes describes a method for retrieving vehicular collateral that includes installing a transmitter within a vehicle that serves as collateral for securing a loan, wherein the transmitter is capable of transmitting location data regarding the vehicle to a base terminal such that, if the loan is defaulted, the vehicle can be easily located and confiscated. Although Forbes is directed to a method for retrieving vehicular collateral, Forbes does not describe, suggest or even mention using a plurality of collection strategies for collecting payment from borrowers, utilizing a re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets, and/or utilizing the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans.

In contrast to what is asserted in the Office Action, Forbes does not describe any collection strategies other than merely locating a vehicle that secures a loan such that, if the loan is defaulted, the vehicle can be easily located and confiscated. Moreover, Forbes does not describe or teach a re-marketing model. Accordingly, Forbes cannot describe or teach utilizing a

re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans, and/or utilizing the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans.

With respect to Vig, the Office Action asserts at page 4 that Freeman and Forbes fail to teach a "re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets, and the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans...However Vig discloses one of the important challenges this invention solves is calculating the relative true dollar values of many cars that offer varying attribute levels..." Therefore, the Office Action further asserts at page 5 that "it would have been obvious to one of ordinary skill in the art as the time the invention was made to modify the teaching of Freeman and Forbes to include re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets, and utilizing the computer and the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans taught by Vig".

Applicant traverses this assertion. Applicant submits that although Vig describes a computer-assisted valuing system for discovering both an entity's actual current societal monetary value and its contemporary monetary worth specifically to the inquiring individual person, group or corporation, Vig does not describe, teach or even mention utilizing a re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets, and/or utilizing the re-marketing model to predict a value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans.

Because none of Freeman, Forbes or Vig describe or teach one or more of the claimed elements as discussed above, it follows that a combination of Freeman, Forbes and Vig cannot describe or teach such elements. Accordingly, Applicant respectfully submits that Claim 1 is patentable over Freeman in view of Forbes and Vig.

For at least the reasons set forth above, Applicant respectfully submits that Claim 1 is patentable over Freeman in view of Forbes and Vig.

Claims 2-10 depend from independent Claim 1 which is submitted to be in condition for allowance. When the recitations of Claims 2-10 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-10 are also patentable over Freeman in view of Forbes and Vig.

Claim 11 recites a system for re-marketing collateral securing a group of non-stationary asset-based loans included within a distressed loan portfolio, the system includes at least one computer, and a server configured with a collections model and a re-marketing model, wherein the server is configured to "access the collections model to predict a payment behavior for borrowers of non-stationary asset-based loans included within a distressed loan portfolio, the collections model is based on historical payment information of the borrowers and a plurality of collection strategies that may be utilized for collecting payment from the borrowers, non-stationary asset based loans include at least one of automobile loans, vehicle loans, and credit card loans...analyze the borrowers' payment behavior after initiating at least one the plurality of collection strategies...compare each of the borrower's payment behavior after initiating the at least one collection strategy to the predicted payment behavior of the same borrower...deem a number of the loans included within the distressed loan portfolio as uncollectable based on the borrower's payment behavior comparison...pursue repossession of the non-stationary assets used as collateral for the uncollectable loans...access the re-marketing model to predict expenses incurred from repossessing each of the non-stationary assets used as collateral for the uncollectable loans including the expenses associated with locating each of the assets, storing each of the assets, and selling each of the assets...and access the re-marketing model to predict a

value generated from repossessing and selling each of the non-stationary assets used as collateral for the uncollectable loans."

None of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest the system recited in Claim 11. More specifically, Claim 11, as herein amended, recites a system for re-marketing collateral securing a group of non-stationary asset-based loans, wherein the system includes, among other things, a server configured to perform steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 11 is patentable over Freeman in view of Forbes and Vig for reasons that correspond to those given with respect to Claim 1.

For at least the reasons set forth above, Applicant respectfully submits that Claim 11 is patentable over Freeman in view of Forbes and Vig.

Claims 12-20 and 22 depend from independent Claim 11 which is submitted to be in condition for allowance. When the recitations of Claims 12-20 and 22 are considered in combination with the recitations of Claim 11, Applicant submits that dependent Claims 12-20 and 22 are also patentable over Freeman in view of Forbes and Vig.

In addition to the arguments set forth above, Applicant also respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Freeman using the teachings of Forbes and Vig. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combinations. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

None of Freeman, Forbes or Vig, considered alone or in combination, describe or suggest the claimed combination. Rather, the section 103 rejection of Claims 1-22 over Freeman in view of Forbes and Vig appears to be based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Freeman teaches a method for mortgage and closed end loan portfolio management in the form of an analytic tool designed to improve analysis of past and future performance of loan portfolios; Forbes teaches a method that includes installing a transmitter within a vehicle serving as collateral for securing a loan wherein the transmitter is capable of transmitting location data regarding the vehicle to a base terminal such that, if the loan is defaulted, the vehicle can be easily located and confiscated; and Vig teaches a computer-assisted valuing system for discovering both an entity's actual current societal monetary value and its contemporary monetary worth specifically to the inquiring individual person, group or corporation. Since there is no teaching nor suggestion for the combination of Freeman, Forbes and Vig, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason also, Applicant requests that the Section 103 rejection of Claims 1-22 be withdrawn.

For at least the reasons set for above, Applicant respectfully requests that the Section 103 rejection of Claims 1-22 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

Daniel M. Fitzgerald
Registration No. 38,880
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070